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|-------------------------------|------------------------|---------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/068,016 | GIVENS ET AL. | |
| | Examiner | Art Unit | |
| | Brian Szmaj | 3736 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment and remarks filed on November 23, 2004.
2. ☒ The allowed claim(s) is/are 1-45, 47-49, 55 and 58-76.
3. ☒ The drawings filed on 05 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date <u>6-26-02</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Julie Richardson on January 31, 2005.

The application has been amended as follows:

Cancel Claims 46, 50-54, 56 and 57.

2. The following is an examiner's statement of reasons for allowance: After reviewing the amendment and remarks filed on November 23, 2004, the claims were found to be allowable since no prior art could be found teaching or suggesting a method for performing a hearing test over a computer network, comprising: controlling the output of the hearing assessment signals during the administering step such that the clinician at the test administration site determines which hearing assessment signals of the generating step are relayed locally to the patient, as claimed in Claim 1; the interactively relaying step is carried out to allow the clinician to selectively initiate a second test stimuli after receiving a patient's response to a first test stimuli during the administering step, as claimed in Claim 2; adjusting the output of the hearing assessment signal during the administering step based on the response of the patient

Art Unit: 3736

and a command sent from the remote site, as claimed in Claim 3; transmitting a command from the test administering site to increase the sound intensity level of at least one of the plurality of hearing assessment signals relayed to the patient at the local site, and transmitting a command from the test administration site to decrease the sound intensity levels of at least one of the plurality of hearing assessment signals during the administering step, as claimed in Claim 6; controlling the sound intensity of the hearing assessment signals delivered to the patient from the test administration site, and wherein the clinician adjusts the sound intensity of a selected frequency of the hearing assessment signals which are delivered to the patient responsive to the patient's response to a particular hearing assessment signal frequency transmitted thereto, as claimed in Claim 10; receiving requests from the web client which provide parameters for performing the diagnostic hearing test during the diagnostic hearing test, and controlling operation of the diagnostic test device based on the parameters of the received request from the web client so as to provide control of the diagnostic hearing test, as claimed in Claim 38; wherein the hearing evaluation device is configured to receive commands from a remote site through the processor over the computer network during the hearing evaluation to allow the remote site to select and/or adjust the tones generated by the tone generator, as claimed in Claim 47; transmitting commands from a remote test administration site to a local patient testing site during at least a portion of the measurement obtaining step, as claimed in Claim 55; and a local audiometer in communication with the controller and configured to selectively output a plurality of hearing assessment signals controlled by the remote test site via the web server during

the hearing test and receive patient responses thereto, as claimed in Claim 60. Claim 31 remains allowable per the reasons set forth in the Office Action mailed on October 4, 2004.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj whose telephone number is (571) 272-4733. The examiner can normally be reached on Monday-Friday, with second Fridays off.

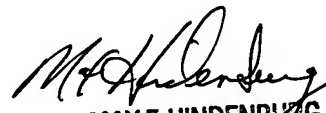
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BS



MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700